

**GROTON PLANNING BOARD  
NOVEMBER 1, 2001  
MINUTES**

Chairman Curtis called the meeting to order at 7:30 PM in the Town Hall

Members present: Curtis, Clements, Degen, Eliot and Perkins

Member absent: Barringer and Lewis

**PUBLIC HEARING – SPECIAL PERMIT, NORMAN & IRENE BUCK**

In accordance with the provisions of Chapter 40A, Sections 9 and 11, the Planning Board held a public hearing to consider the application submitted by Norman & Irene Buck for a special permit to utilize the provisions of Groton Zoning By-law Section 218-23.1 Hammerhead Lots to create one (1) hammerhead lot shown as Lot 2 on the plan entitled, "Plan of Land in Groton, Massachusetts; Prepared for Norman and Irene Buck," prepared by David E. Ross Associates, dated August, 2001. The proposed lots are located on Assessors Map 112, Parcel 108, on the easterly side of Hollis Street.

Chairman Curtis called the hearing to order by reading the notice mailed to parties in interest published in the October 12 and 19, 2001 issues of *The Groton Herald*. Applicants Norman and Irene Buck were present.

Mr. Buck said the proposed hammerhead lot exceeds all the requirements of the Zoning By-law. The lot has 6.14 acres and 60 ft frontage. The house will be set back more than 200 ft.

Chairman Curtis read the comments from the Groton Water Department, the Conservation Commission, the Board of Health, and the Police Chief.

Member Degen asked if the Conservation Commission has seen the lot. Chairman Curtis said, "yes," the letter from the Conservation Commission states that it verified the wetlands flagging on September 25, 2001.

Member Clements stated that he did not know if the lot meets the requirements of the newly adopted Wetlands Protection By-law. Mr. Buck responded that there is enough room on the lot to construct the house more than 100 ft from the wetlands. Member Clements asked if there will be any work within 100 ft of wetlands. Mr. Buck said, "no."

Member Degen asked if the upland requirements are met and if the 150 ft circle is in compliance with the new Computation of Lot Area requirements. Mr. Buck said the lot meets the 80,000 sq ft upland requirements.

Member Degen said he must hear from the Conservation Commission on this issue. Member Clements said if there is no work within 100 ft of the wetlands, there is no need to file with the Conservation Commission. Mr. Buck pointed out where the house could be located beyond the 100 ft buffer zone. Member Degen suggested that the special permit include a condition that construction must comply with the new Wetlands Protection By-law. Mr. Buck agreed.

Member Degen asked if the two conventional lots could be created. Mr. Buck said, "no." Even though the parcel has sufficient acreage and frontage, two conventional lots cannot be created because of the location of the existing house and the 225 ft frontage requirements.

Mrs. Buck said the historic house was constructed in 1843, and it should have enough land area surrounding it for aesthetic reasons.

Member Perkins asked if public water and sewer are available. Mr. Buck said, "yes." However, sewer capacity is not available at the present time. They have applied for a sewer connection permit and they are first on the waiting list.

Chairman Curtis asked if Board members would like to take a site walk. Members said they were familiar with the location of the proposed hammerhead lot.

The Board voted unanimously to close the public hearing.

The motion was made by Perkins to grant a special permit to Norman & Irene Buck to utilize the provisions of Groton Zoning By-law Section 218-23.1 Hammerhead Lots to create one (1) hammerhead lot shown as Lot 2 on the plan entitled, "Plan of Land in Groton, Massachusetts; Prepared for Norman and Irene Buck," prepared by David E. Ross Associates, dated August, 2001, based upon the following findings and with the following conditions:

**Findings:**

The Planning Board made the following findings based upon the criteria set forth in Zoning By-Law §§ 218-23.1 and 218-32.1:

1. Social, economic and community needs: The impact on the Town's economic and community needs will be minimal from the creation on one hammerhead lot.
2. Traffic flow and safety: Impact on traffic flow will be minimal as a result of the creation of one single-family dwelling on a five-acre lot.
3. Adequacy of utilities: Public utilities are available at the location of the proposed hammerhead lot.
4. Neighborhood character: The neighborhood character will be maintained by the creation of a hammerhead lot for single-family residential use.
5. Impacts on the environment: Environmental impact will be minimal provided that development of the lot complies with the Wetlands Protection By-law.
6. Fiscal impact on the Town: The fiscal impact to the Town will be minimal from one single-family house on a five-acre lot.
6. Section 218-23.1 Hammerhead Lots: The proposed hammerhead lot meets the minimum dimensional requirements (five acres area, 40 feet frontage, and 200 ft set back) for hammerhead lots. The reduction in frontage does not result in a hazardous concentration of egress points.

**Conditions:**

The Board granted the special permit with the following conditions:

1. Development of the lot shall meet all requirements of the Chapter 215, Wetlands, of the Code of the Town of Groton.
2. This special permit shall not be in effect until certified copies of the special permit decision and the subsequently endorsed ANR plan are recorded at the Middlesex South Registry of Deeds as required in GL Chapter 40A, Section 11, and Groton Zoning By-Law Section 218-32.1. No construction or site alteration shall commence nor shall any necessary permits be issued by any Board or official until evidence of such recording is submitted to the Planning Board by the applicant.
3. This special permit shall lapse in 24 months, which shall not include such time required to pursue or await the determination of an appeal referred to in Chapter 40A, Section 17, from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. The recording of the special permit and subsequently approved ANR plan shall constitute commencement of substantial use.
4. This special permit runs with the land and applies to any successor in interest or successor in control.

The motion was seconded and passed unanimously.

### **PERFORMANCE BOND REDUCTION – CALDWELL SMITH SUBDIVISION**

The Board considered the performance bond reduction for the Caldwell Smith (Sawtell Drive) subdivision. The Board received a report dated July 12, 2001 from Judith Nitsch Engineering, Inc. (JNEI) estimating the cost to complete the subdivision as \$15,391.06. The Board did not reduce the bond in July because the conservation land had not been conveyed to the Town as required in the special permit.

Developer Cyril Lunn executed the deed for the conservation land and submitted it to the Town in August. The Conservation Commission voted to accept the parcel. However, the deed has not been recorded at the Registry of Deeds because there are unpaid taxes on the parcels. Tax Collector Thomas Hartnett said if the Board reduces the bond, he will hold the check until the taxes are paid. Once the taxes are paid, the deed for the open space parcels can be recorded at the Registry of Deeds. The only outstanding work is the installation of the streetlight and revisions to the as-built plans.

The motion was made by Perkins to reduce the bond for the Caldwell Smith subdivision to \$15,391.06 as recommended in the report dated July 12, 2001 from JNEI. The motion was seconded and passed unanimously.

### **GILSON ESTATES BOND REDUCTION**

The Board considered the reduction of the performance bond for the Gilson Estates subdivision. Planning Administrator Michelle Collette reported that the Fire Chief and John Schmid of JNEI both said the fire cistern was far enough off the road so repairs could be made without damaging the pavement. The Board is waiting for a letter from Town Counsel regarding the proposed “maintenance bond” to replace the insurance bond as requested by the developer.

The motion was made by Degen that the Board continue to hold the performance bond in the amount of \$335,000.00 until the issue with the bond renewal has been resolved and that the Board not reduce the bond. The motion was defeated with Degen and Clements in favor; Perkins and Eliot opposed; Curtis abstaining.

Chairman Curtis noted that most of the work has been done and JNEI estimates that the cost to complete is \$32,514.62. If matters with the bond are not resolved, the Board can request that the Building Inspector not grant building or occupancy permits.

The motion was made by Curtis to reduce the bond to \$32,514.62 as recommended by John Schmid of JNEI. The motion was seconded and passed with Curtis, Clements, Eliot, and Perkins in favor; Degen opposed.

### **SITE PLAN REVIEW – PETERBOROUGH OIL. BOSTON ROAD**

The Board received a letter dated October 25, 2001 requesting a continuation of site plan review and extension of the Planning Board’s deadline to December 31, 2001.

The Board voted unanimously to extend the deadline to December 31, 2001 as requested by the applicant. The Board will continue its review of the site plan on December 6, 2001 at 8:00 PM.

### **ANR PLAN & ACCESS ADEQUACY – TRACY ELIADES, CULVER ROAD**

The Board reviewed the Request for Determination of Access Adequacy submitted by Tracy Eliades for Culver Road, a public way. In 1998, the Planning Board denied endorsement of an ANR plan because it determined that access on Culver Road was not adequate. Mr. Eliades appealed the decision to Court. In the meanwhile, Mr. Eliades entered into an agreement with the Board of Selectmen to improve the road. The road improvements have been completed, and Mr. Eliades submitted an application for a building permit. The Building Commissioner denied the building permit and referred Mr. Eliades to the Planning Board for an access adequacy determination. Mr. Eliades also re-submitted the 1998 Approval Not Required plan to create one new lot.

Chairman Curtis said the Board received a copy of a letter dated October 23, 2001 from David Ross Associates to the

Board of Selectmen regarding the location of the stone bound; comments from the Highway Surveyor, and comments from the Police Chief.

Member Perkins expressed concern that there is a low spot near the “T” turn-around area which may cause ponding and freezing. She also noted that the sidewalk is not handicapped accessible as required by ADA regulations.

Member Degen said the road improvements extend to the Ayer-Groton town line. He asked where snow will be stockpiled. Mr. Eliades said snow can be plowed onto his land in Ayer.

The Board will walk the site on Saturday, November 3, 2001 at 8:30 AM.

Abutter Maureen Beals expressed concern about the road bound, the lack of curbing near the “T” turn around, and runoff problems that may result. She asked why three shag-barked hickory trees were removed.

Chairman Curtis said the road is a public way questions about the trees should be addressed to the Board of Selectmen and the Tree Warden.

Mrs. Beals asked why there are two driveways and two sewage disposal systems if there is only one building lot shown on the plan.

Chairman Curtis said the Board must determine access adequacy to Lot 1 as shown on the ANR plan. The plan shows one building lot and one unbuildable parcel.

Carl Furbeck of Dolan Drive asked about runoff to James Brook. Chairman Curtis said Culver Road is a public way and under the jurisdiction of the Highway Surveyor. The Board must determine if the access is adequate to serve the one lot shown on the ANR plan now that Mr. Eliades has improved the road in accordance with his agreement with the Board of Selectmen.

Planning Administrator Michelle Collette said the road work including culvert and crossing of James Brook is subject a superceding order of conditions issued by the Department of Environmental Protection (DEP). The DEP determined that this section of James Brook is not a perennial stream.

Ben Rand asked what will happen to the land in Ayer. Chairman Curtis said the Planning Board cannot speculate about what might happen in Ayer, but Culver Road was abandoned by the Town of Ayer in 1949.

Member Perkins asked if the lot meets the 80,000 sq ft upland requirements adopted at the 2001 Annual Town Meeting. Planning Administrator Michelle Collette said the 80,000 sq ft requirement may not apply since the plan has been in litigation since 1998. The Board will check with Town Counsel on this question.

### **PUBLIC HEARING (con’t) – SPECIAL PERMIT, KOBRIN HAMMERHEAD LOT**

*(Note: Member Clements stepped down because he has an easement on the property.)*

The Board continued the public hearing to consider the application submitted by Robert Kobrin and Elizabeth Rodeno to create two hammerhead lots off Skyfields Drive. Elizabeth Rodeno was present.

The Board voted unanimously to continue the public hearing on November 15, 2001 at 8:30 PM because there were not five members present to consider the application.

### **PUBLIC HEARING (con’t) – SPECIAL PERMIT, FOX MEADOW/FUCCILLO PLAN**

The Board continued the public hearing to consider the application submitted by Fox Meadow Realty Trust and Gloria Fuccillo for a special permit to create six new lots on Lowell Road. The Board received a letter dated October 31, 2001 from Attorney Robert Collins requesting an extension of the Board’s deadline and continuation of the public hearing.

The Board voted unanimously to extend the deadline to December 15, 2001 as requested by the applicant.

The Board voted unanimously to continue the public hearing on December 6, 2001 at 8:30 PM.

### **GROTON-DUNSTABLE BUILDING COMMITTEE CONCERNS**

The Board met with GDRS Building Committee Chairman Steve Prendergast and School Committee member Peter Carson to discuss bills for engineering services. When the Board received the site plan for the high school, it hired Fay, Spoffard, and Thorndike reviewed the plans, attended several meetings, and participated in the site walks. The bill for FST's services totaled approximately \$14,000.00. GDRS reimbursed the Planning Board for the engineering services because the engineer's participation was requested by the school's legal counsel.

Mr. Prendergast said GDRS will not pay additional charges for site plan review if the Board has no authority on certain aspects of the plan. Chairman Curtis read the paragraph from Chapter 40A, §3, which details the limits of the Board's jurisdiction for exempt uses.

Member Degen asked about the construction supervision of the emergency vehicle access road. Mr. Prendergast said the school would reimburse the Town for those services because it had agreed to do so when the site plan was approved.

Chairman Curtis requested that GDRS send the Board a letter explaining what engineering services it would and would not be willing to reimburse in the future so the Board will know prior to sending plans to its engineer for review.

### **INTEGRITY WAY**

The Board received a request from Integrity Builders to waive the requirement for the streetlight in the cul de sac and the street trees because the gas line is directly below where the trees should be planted. The Board also received a letter dated September 21, 2001 signed by all the residents agreeing with the waiver, and a letter dated August 3, 2001 from the Tree Warden approving the waiver of the street trees.

The motion was made by Perkins to grant a waiver of §346-12B so that the streetlight is not required in the cul de sac. The motion was seconded and passed unanimously.

The motion was made by Curtis to grant a waiver of §346-12C so that additional street trees are not required because the Tree Warden approved the trees planted to date. The motion was seconded and passed unanimously.

### **UNFINISHED SUBDIVISIONS**

The Planning Board will send a letter to all developers with unfinished subdivision roads reminding them that it is the developer's obligation to plow and maintain a subdivision road until the Town accepts the road as a public way.

Meeting adjourned at 9:00 PM

Respectfully submitted,

Michelle Collette  
Planning Administrator

